

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 22982 of 1996

DATED:28-10-2005

Between:

S.N.B.T. DEGREE COLLEGE FOR WOMEN REP. BY ITS SECRETARY &
CORRESPONDENT,MR.KHADER SHARIF, REPALLE, GUNTUR DISTRICT

..... PETITIONER

AND

1 .THE GOVERNMENT OF ANDHRA PRADES REP. BY ITS SECRETARY ,
EDUCATION DEPARTMENT, SECRETARIAT , HYDERABAD.
2 .COMMISSIONER OF COLLEGE EDUCATION,
HYDERABAD A.P.

.....RESPONDENT(S)

THE HONOURABLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.NO.NO.22982 OF 1996

ORDER:

1 .Questioning the Constitutional Validity of Section 3 (1)(b) of A.P. Private Educational Institutions Grant-in-aid (Regulation) Act,1988 (Act No.22/1988) (in short 'the Act') and a consequential direction to the first respondent to admit the petitioner college to grant-in-aid, this petition is filed alleging that after its establishment in pursuance of the permission granted to it by the Government in G.O.Ms.No.299, Education, dated 29-7-1988 without grant-in-aid, it had acquired good reputation and even after it had acquired all the requisites for being admitted to grant-in-aid, first respondent is not admitting it to grant-in-aid by taking shelter under Section 3(1) (b) of the Act.

2. The contention of the learned counsel for the petitioner is that in view of ratio in **DAGGUBATI CHENCHURAMIAH MEMORIAL DEGREE COLLEGE VS. GOVERNMENT OF A.P.** respondents rejecting the petitioner's claim for admission to grant-in-aid, taking shelter under Section 3(1)(b) of the Act, is improper. The contention of the learned Government Pleader is that since the petitioner college was established subject to the condition of its not being admitted to grant-in-aid, and in any event since Section 3(1)(b) of the Act prohibits private college established after 1-3-1985 being admitted to grant-in-aid, petitioner is not entitled to any relief since no fundamental right of it is violated and since directive principles of State Policy are not enforceable.

3. In **DAGGUBATI CHENCHURAMAIAH MEMORIAL DEGREE COLLEGE** case (1 Supra) relied on by the learned counsel for the petitioner, it is held that the State, in view of the ratio in **STATE OF MAHARASTRA VS.MANUBHAI PRAGAJI VASHI,,** is bound to admit the institutions which are otherwise eligible for grant-in-aid, to grant in aid, ignoring its financial inability and gave a direction to the State to consider the representation of the petitioner therein for admission to grant-in-aid ignoring Section 3(1)(b) of the Act. That order of the learned single judge was confirmed by a Division Bench in **GOVERNMENT OF A.P. VS.DAGGUBATI CHANCHURAMAIAH MEMORIAL DEGREE COLLEGE** with a direction to the Government to dispose of the representation, if made by the writ petitioner for admission to grant-in-aid, within a period of two months from the date of receipt of a copy of that order. In view of the ratio in the said decision, respondents are bound to take into consideration the request of the petitioner for admission to grant-in aid, ignoring Section 3(1)(b) of the Act and are not free to deny the benefit to the petitioner, if it is otherwise entitled to such relief, by taking shelter under Section 3(1) (b) of the Act.

4. In view thereof this petition is disposed of with a direction to the respondents to consider the representation of the petitioner for admission to grant-in-aid, and admit it to grant-in-aid, if it fulfills all the requirements therefor, without taking into consideration i.e. ignoring Section 3(1)(b) of the Act, within a period of three months from the date of receipt of a copy of this order by passing a reasoned order, and communicate the same to the petitioner by registered post acknowledgement due. No order as to costs.

C.Y.SOMAYAJULU,J

28-10-2005

Stp